

MONTANA LEGISLATIVE HISTORY

Chapter 711 19 89

Bill H 452 S _____ Original bill & history C

H. Committee on Appropriations

Hearing Date(s) Feb 13 ☒ C

Feb 15 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Feb 15 ☒ C

S. Committee on Finance & Claims

Hearing Date(s) Mar 10 ☒ C

Apr 06 ☒ C

_____ ☐ C

_____ ☐ C

Apr 06 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Note: A Free Conference Committee was appointed. Its minutes were not recorded.

HEARING ON HOUSE BILL 452

"AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM; AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113, 53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND 53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Representative Cody, Chief Sponsor of House Bill 452 said this bill amends provisions of title 53, chapter 6 of the MCA. She said revisions proposed are to insure that terminology used in Montana Statutes are consistent with federal law and existing programs. A listing, she said, of medicaid services is amended to reflect those changes. She said the changes have also been made to conform with the Omnibus Budget Reconciliation act of 1987 and the Medicare Catastrophic Coverage act of 1988.

Testifying Proponents and Who They Represent:

Russell Cater, Chief Legal Council for SRS.

Proponent Testimony:

Mr. Cater said the driving force behind the request for the bill is the mandatory changes.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Representative Swift asked, does the federal change require that medicare payment. Rep. Cody asked if he were asking about the Medicare Co-payment, and Rep. Cody said is to the benefit of the state. If the facility is medicare certified, then the Department pays the medicare payment, medicare pays first then medicaid picks up the rest. Mr. Cater answered the question and said, yes, it was mandated (678)

Representative Bardanoue asked Mr. Cater what additional impact will this bill have? (742) Mr. Cater said he had asked about the fiscal note and the person preparing the bill had felt since it was mandated, no fiscal note was needed. Rep. Bardanoue said he felt they needed a fiscal note since even though federally mandated, it would cost the state money. Mr. Cater said that under the medicare program buy in, we

are talking about an extra \$6 million. There will be a 70% reimbursement from the federal government. Rep. Bardanoue said the 30% would cost the state \$1.8 million. He asked if this program was an absolute mandate, or is it optional and Mr. Cater said there is no optional. The only option would be to get out of the medicare program. This particular program is mandatory. Mr. Cater said the program was to take effect on January 1 of this year, they had requested a waiver, indicating they did not have the statutory authority to do so, and we requested July 1. The initial review from the federal government indicates we will have to start it on April 1.

Closing by Sponsor: Representative Cody closed by saying one of the questions she had before carrying the bill, was what if we don't do this, and the Department either has to address the problem or drop medicare.

Representative Bardanoue declared the hearing closed on House Bill 452.

HEARING ON HOUSE BILL 453

Presentation and Opening Statement by Sponsor:

"AN ACT REVISING ELIGIBILITY FOR THE MONTANA MEDICAID PROGRAM TO CONFORM WITH FEDERAL REQUIREMENTS FOR STATE MEDICAID PARTICIPATION; REMOVING THE AUTHORITY OF COUNTY WELFARE BOARDS TO REVIEW MEDICAID ELIGIBILITY DETERMINATIONS; AMENDING SECTIONS 53-6-113, 53-6-131, 53-6-133, AND 53-6-141, MCA; AND PROVIDING EFFECTIVE DATES."

Representative Cody said this bill addresses the eligibility requirements, both financial and non-financial. She said this bill would amend the law to more particularly reflect the terminology and mandates required by federal law. (916)

Testifying Proponents and Who They Represent:

Russel Cater Chief Legal Council for the SRS.

Proponent Testimony:

Mr. Cater said the driving force behind this was they looked at the medicaid eligibility established in the current codes and realized they had not been revised since 1965. This will clean up some of the language and explain it in more detail.

Testifying Opponents and Who They Represent:

DAILY ROLL CALL

HOUSE APPROPRIATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/13/89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON		✓	
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

DISPOSITION OF HOUSE JOINT RESOLUTION 21

Motion: by Representative Menahan that HJR do pass

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voted, do pass, unanimous vote of those present.

DISPOSITION OF HOUSE BILL 452

Motion: Representative Swift made the motion that House Bill 452 Do Pass.

Discussion: Representatives Cody and Bradley explained the necessity of this bill to help clean up and the action taken in subcommittee. They said the spending was mandatory, but this cleaned up the loose ends.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voted, passed, unanimous

DISPOSITION OF HOUSE BILL 453

Motion: Motion by Representative Nisbet that House Bill 453 do pass

Discussion: Representative Cody said this was the same as 452, for clean up of loose ends.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voted, passed, unanimous of those present.

Representative Bardanouve said he would like to have more committee members present to act on the remaining bills.

Adjournment at: 4:02 p.m.


REP. FRANCIS BARDANOUE, Chairman

3902, MIN

DAILY ROLL CALL

HOUSE APPROPRIATIONS

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/15/89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	✓		
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI			✓
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT			✓
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD			✓
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that
HOUSE BILL 452 (first reading copy -- white) do pass.

Signed: Francis Bardanoue
Francis Bardanoue, Chairman

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By CHAIRMAN STORY, on MARCH 10, 1989, at
8:00 A.M.

ROLL CALL

Members Present: Senator Gary Aklestad, Senator Loren
Jenkins, Senator Esther Bengtson, Senator Matt Himsl,
Senator Paul Boylan, Senator Tom Keating, Senator Judy
Jacobson, Senator H.W. "Swede" Hammond, Senator Pat
Regan, Senator Larry Tveit, Senator Fred Van
Valkenburg, Senator Dennis Nathe, Senator Greg
Jergeson, Senator Gerry Devlin, Senator Richard
Manning, Senator Sam Hofman, Senator Lawrence Stimatz,
Senator Ethel Harding, Senator Pete Story

Members Excused: None

Members Absent: None

Staff Present: Curt Nichols, LFA; Deb Thompson, Secretary

Announcements/Discussion: Elizabeth Bozdog with the
Childrens Alliance served juice and muffins.

HEARING ON HOUSE BILL 452

Presentation and Opening Statement by Sponsor:

Representative Dorothy Cody, District 20, presented HB 452.
She explained that the bill was needed in order for the
State to conform with the federal changes in Medicaid.

List of Testifying Proponents and What Group they Represent:

Russell Cater, Department of Social and Rehabilitative
Services

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Russell Cater, chief legal counsel for SRS, discussed the
bill as a result of federal law. He said the state has

no choice in the matter or else the Medicaid program would be eliminated. See Exhibit 1.

Questions From Committee Members:

Senator Aklestad pointed out that there was no fiscal impact but that the bill looks like it is mandating more restrictive language. Russell Cater said that the changes in the Act start on page 9 concerning the health care facilities standards. The Department of Health insures that these facilities follow federal standards. He said it is spelled out in section 4 where penalties will be imposed on providers in order to protect patients. Senator Aklestad noted that due to mandates imposed on someone else they can't live up to the mandate because of the additional cost.

Senator Keating asked if the State paid on a 70-30 match. Russell Cater replied that it was a 71-29 match. He said the more money the State puts up the more they get from the Federal. Senator Keating pointed out on page 6, line 11 it was limited to only clinical social workers. He suggested professional licensed counselors should be included. Russell Cater replied that the federal law allowed reimbursement for clinical social workers. He said the law was general but could be expanded with additional appropriation. He pointed out that professional counselors have been wanting to come to the Medicaid program.

Senator Himsl pointed out that Medicaid was an entitlement program. Russell Cater said it was true in the sense that if you are eligible for Medicaid services you are entitled to receive them but there are certain restrictions within federal law and certain options which the state can take. He listed examples of mandated services from page 5, line 6. The only service that isn't a mandated service by federal law would be nurse specialists, he said.

Senator Himsl asked for a figure that the Medicaid program would cost with respect to the Medicaid buy-in. Russell Cater replied that the amount was drawn up in the subcommittee. He said the Medicare buy-in in the current budget is \$1.8 million dollars for FY 1990 and \$5.3 million for FY 1991.

Senator Himsl asked if there was a qualifying period for the state to comply. Russell Cater replied that there was. He said he copied an article from the Medicaid-Medicare Guide from the Commerce Clearinghouse that discusses the requirements. He said that under the Medicaid buy-in it is to be effective January 1, 1989. The law

indicates that the state is entitled to ask for a waiver if state law does not allow for a buy-in. The state has to enact the buy-in no later than the first quarter after the legislative session ends which would be July 1. The Department of SRS has requested a waiver, he said.

Senator Jenkins asked about rulemaking authority on page 9, line 24, concerning minimum standards if this would be expanding above federal standards. Russell Cater replied that federal law says that facilities not only must follow the minimum standards in federal law but also be able to achieve requirements of a state licensing authority. He said the Department of Health standards follow the federal certification standards.

Closing by Sponsor: Representative Cody closed. She commented that if the bill does not pass SRS must do it anyway.

HEARING ON HOUSE BILL 636

Presentation and Opening Statement by Sponsor:

Representative Bob Pavlovich, District 70, presented HB 626. (A-738)

List of Testifying Proponents and What Group they Represent:

List of Testifying Opponents and What Group They Represent:

Testimony:

Nick Rotering, attorney with Department of Institutions, said the bill would clarify existing reimbursement laws. Section 2 of the bill indicates the authority of the department over what programs would be addressed. He said the bill was a house keeping bill and the language had been in the bill since 1977 and needed to be revised.

Questions From Committee Members: None

Closing by Sponsor: Representative Pavlovich closed.
Senator Jacobson carries the bill.

HEARING ON HOUSE BILL 453

Presentation and Opening Statement by Sponsor:

Representative Dorothy Cody, District 20, presented HB 453.

Senator Van Valkenburg asked Peter Blouke if there would be changes in the Medicaid Program in the coming biennium. Peter Blouke replied that he did not see an expansion in rulemaking or services. He noted that the names were changed in specific services but the services were still provided.

Closing by Sponsor: Representative Cody closed. She commented that the bill would give the department some direction.

DISPOSITION OF HOUSE BILL 452

Discussion: Senator Manning moved that HB 452 be concurred in. Senator Keating said he was concerned that licensed professional counselors were not included. He pointed out they would be less expensive and there could be a savings.

Senator Manning withdrew the motion.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 744

Presentation and Opening Statement by Sponsor:

Representative Joe Quilici, District 71, presented HB 744 to de-earmark the Motor Vehicle Account to go directly to the general fund.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Questions From Committee Members: Senator Regan commented that the fund was constantly overdrawn and using general fund money anyway.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

Exhibit 1
HB 452
3/10/89



STAN STEPHENS, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604-4210

EXPLANATION OF HOUSE BILL 452
MEDICAID SERVICES

The Department of Social and Rehabilitation Services is proposing to amend certain provisions in Title 53, chapter 6 of the Montana Code Annotated. Revisions are proposed to insure that the terminology used in Montana statutes are consistent with federal law and existing programs. A listing of medicaid services in section 53-6-101 is amended to reflect those changes.

Two substantive changes have also been made to comply with the Omnibus Budget Reconciliation Act of 1987 (OBRA) and the Medicare Catastrophic Coverage Act of 1988 (MCCA). These changes authorize the department to pay the medicare premiums of individuals with incomes within 100% of the poverty guidelines (MCCA § 301). The bill also implements the federal requirements that the state performs survey and certification requirements for health care facilities, including the establishment of minimum health care standards, the adoption of civil penalties for facilities that have not complied with federal requirements, the imposition of sanctions, suspension and termination from the Medicaid program, and the ability of the department to temporarily take over management of a health care facility while there is an orderly closure of the facility or improvements are made in order to bring the facility into compliance with minimum federal standards (OBRA § 4213). The bill also mandates preadmission screening for private pay patients as well as medicaid patients in those situations required by federal law.

Russell E. Cohen

VISITORS' REGISTER

Finance : Claims

COMMITTEE

BILL NO.

452

DATE _____

3/10/89

SPONSOR

Rep. Anthony Cody

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments and Votes: None

Recommendation and Vote: The motion passed unanimously.

HEARING ON HOUSE BILL 452
DISPOSITION OF HOUSE BILL 452

Discussion: Senator Keating proposed an amendment on HB 452, on page 6, line 24. (See Exhibit #1.)

Senator Aklestad pointed out that this may increase the cost in the long run and the amount of service that will be provided may be expanded.

Senator Story asked if there was a screening required before a person is eligible to receive this benefit.

Senator Keating replied (570) that all of the services that are provided through the medicaid program, every recipient has to be determined eligible. The number of case loads is what drive the appropriations. He said that the case load are the determining factor for the appropriation and those clients receive those services within that case load area and can go to anyone of the providers to receive that service and psychologist and social workers do the same thing as licensed professional counselors, including professional counselors as a service is not a new service. However, those that are eligible can go to a different provider for the service, he said. He explained qualifications of licensed professional counselors and the social workers. He said they have the same licensing board and the same degree of education.

He pointed out that wherever the licensed professional counselor is part of the professional clinic, the clinic itself is medicare eligible. Of the 210 professional licensed counselors, two thirds of them are in clinics. They are medicaid eligible and the clinics are receiving medicaid reimbursements for those licensed professional counselor services within their institutions.

Senator Jacobson commented that medicaid is already paying for these people to deliver those kinds of services.

(Tape 2-A)

Questions From Committee Members: Senator Devlin asked if this would expand the program.

Senator Keating replied that it could.

Amendments and Votes: Senator Keating proposed an amendment that passed on a roll call vote of 12 for and 5 against.

Recommendation and Vote: Senator Van Valkenburg moved to do pass HB 452 as amended, it passed with one no vote.

HEARING ON HOUSE BILL 583

Presentation and Opening Statement by Sponsor: Senator Aklestad noted that the number of people that came in pertaining to the tourist and the motel and hotel industry, were concerned about having these monies earmarked since the results of this program have brought people into the state. The program is working for the state of Montana and is generating revenue with the promotion and brings additional people into the state. Since it is such a new program, it should function and work within the parameters of which it was originally intended, he said. He moved the amendment. (See Exhibit #2.) (158)

Discussion: Senator Jenkins pointed out that the intention of this bill, two years ago was to promote tourism. This increased tourism for the whole state of Montana, not just for the motels, but for the restaurants, the gas stations, the gift shops, etc. He noted that there was only a year or so to show results even though it was a drought year last year, and Montana was burning up, tourism has gone up. This is a good return for taxpayers money.

Senator Keating said as long as the program is functioning and the results are obvious, then it should stay the way it is.

Questions From Committee Members: None

Amendments and Votes: Senator Aklestad proposed an amendment that passed on a roll call vote of 14 for and 5 against.

Discussion: Senator Bengtson offered an amendment that takes section five out of the bill, that deals with education. She pointed out that there isn't money in their budget and this money is for 22,000 teachers. (614)

Senator Keating pointed out the fear among the various departments in the government when there is a raid on statutory appropriation by putting it into state special revenue. The state auditors budget, two years ago, accepted the ordinance of the industry who wanted to charge their consumer an additional payment cost of

Amendments to House Bill No.452
House Third Reading Copy

For the Committee on Senate Finance and Claims

Prepared by LFA
March 13, 1989

1. Page 6, following line 24.

Insert: "(L) services of professional counselors licensed under
Title 37, Chapter 23, MCA;"

Renumber: subsequent subsections

8855

ROLL CALL VOTE

FINANCE AND CLAIMS

COMMITTEE

DATE 4-6-89

BILL NO. HB 452

NUMBER 1

Keating

NAME	AYE	NA
Senator Gary Aklestad		✓
Senator Loren Jenkins	✓	
Senator Esther Bengtson	✓	
Senator Matt Himsel		✓
Senator Paul Boylan	✓	
Senator Tom Keating	✓	
Senator Judy Jacobson	✓	
Senator H.W. "Swede" Hammond		
Senator Pat Regan	✓	
Senator Larry Tveit		✓
Senator Fred Van Valkenburg	✓	
Senator Dennis Nathe		✓
Senator Greg Jergeson	✓	
Senator Gerry Devlin		✓
Senator Richard Manning	✓	
Senator Sam Hofman	✓	
Senator Lawrence Stimatz	✓	
Senator Ethel Harding	✓	
Senator Pete Story	✓	

TALLY

13

Debbie Thompson - 319
Secretary

Pete Story
Chairman

Motion: Keating amendment passed